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The development of the criminal law of evidence in the Netherlands, France and Germany between 1750 and 1870

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Stellingen

1. The history of the criminal law (of evidence) is a neglected field of research in the Netherlands. The academic interest in this subject needs to be revived.
2. The changed ideas in the political-constitutional and epistemological discourses in the seventeenth and eighteenth centuries were crucial factors in the emergence of the free evaluation of the evidence in continental Europe.
3. The proposal to introduce a jury system in the Netherlands has been rejected in the nineteenth century predominantly because there was a high level of trust in the professional magistrates.
4. Two of the most important changes in the 'modern' criminal law of evidence were the introduction of the free evaluation of the evidence between 1750 and 1870 and the emergence of the forensic sciences in the late nineteenth and early twentieth centuries.
5. Foucault, in his *Discipline and Punish* (1975), correctly argued that with the abandonment of the system of legal proofs the jurist was no longer "the master of his own truth".
6. The emergence of the forensic sciences since the late nineteenth century has made the (scientific) analysis of circumstantial forms of evidence seem more reliable than the testimony of witnesses and the accused. This constitutes a significant long-term reversal within the criminal law of evidence.
7. The recent legislative proposal to introduce the beyond a reasonable standard into the Dutch criminal law of evidence, should be supported.
8. The negative system of legal proofs in the Netherlands should be abolished and be replaced with a completely free evaluation of the evidence.